

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**DUSTIN C. WILSON,**  
**Plaintiff,**

**v.**

**LT. TINCHER, *et al.*,**  
**Defendants.**

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**Civil Action No. 7:15cv00134**

**ORDER**

**By: Norman K. Moon**  
**United States District Judge**

In accordance with the memorandum opinion entered this day, it is hereby **ORDERED** that Nurse Payne's motion to dismiss (Docket No. 37) is **GRANTED**; the other defendants' motion for summary judgment (Docket No. 27) is **DENIED in part** as to the claim against Lt. Tinchler about the Oleoresin Capsicum spray used in his presence and is **GRANTED in part** as to all other claims against Lt. Tinchler, Warden Wright, Sgt. Lundy, and Grievance Counselor Walls; Warden Wright, Sgt. Lundy, Grievance Counselor Walls, and Nurse Payne are **TERMINATED** as defendants; Wilson's motion for summary judgment (Docket No. 34) is **DENIED**; and in accordance with Standing Order 2013-6, Lt. Tinchler shall **FILE** a motion for summary judgment within thirty days that addresses the merits of the remaining claim and exhaustion of administrative remedies.

The Clerk shall send copies of this order and the accompanying memorandum opinion to the parties.

**ENTER:** This 18th day of February, 2016.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE